IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1179 OF 2005
IN
SECOND APPEAL NO.1374 OF 2004

1.Murlidhar Rambhau Somwanshi and Ors...Applicants
Versus
1.Shri Yashwant Murlidhar Shevre & Ors..Respondents

Mr.R.A.Thorat for applicants
Mr.N.V.Bandiwadekar for respondents

CORAM : P.V.KAKADE, J.
DATE : 12TH AUGUST, 2005

P.C.:

1. This application for modification of the order passed on 21.12.2004 in C.A.No.1835 of 2004 in S.A.No.374 of 2004 whereby directed the parties to maintain status-quo in respect of Survey No.9/2/1, 9/1/2, 9/1/3 and 9/1/4 at village Anandwalli, Taluka & District Nasik and seeking modification of the interim order so as to exclude therefrom the lands Survey No.9/2/1 and 9/1/4 from the said order.

2. I heard both sides. Perused the record including the affidavit in reply.

3. The appellant has vehemently challenged the

application on the ground that if the order is modified in terms of the application then the subject matter of the appeal would not remain in existence and therefore, the application is liable to be rejected, as the appeal is already admitted and the substantial questions of law are framed in that regard touching the dispute involved therein.

4. It is submitted on behalf of the applicants that the State Government has already given extension to implement the scheme under the ULC Act by letter dated 12.8.2004 and therefore, it is necessary to exclude the said two lands from the order of the maintenance of status-quo passed by this court earlier, which according to them, would not prejudice the cause to the appellant. According to the applicants, they are unable to execute the approval plan under section 2A of the said Act and hence modification is necessary.

5. I have perused the judgments of both the courts below as well as annexures to the application and I am of the view that no prejudice would be caused to the appellant if conditional order is passed modifying the earlier order of status-quo. Hence, it is directed that

the application is made absolute in terms of prayer clause (a) on condition that the implementation of the Scheme by the Respondent shall be subject to final decision in the appeal, including in terms of monetary compensation if occasion arises and ultimately the appellant succeeds in this case. With this direction the application stands disposed of and earlier order of status-quo is modified to the prayer clause (a).

6. It is clarified that while implementing the scheme the applicants shall be under obligation to inform the prospective purchaser in respect of the litigation pending in this Court and this order passed by this court.